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TAGS: [KTIP](#) [KCRM](#) [KWMN](#) [PGOV](#) [PHUM](#) [PREL](#) [SMIG](#) [MY](#)
SUBJECT: TIP: MALAYSIAN DIRECTOR GENERAL OF LABOR SAYS GOM
MAKING PROGRESS ON LABOR TRAFFICKING ISSUES

REF: A. KL 775--TIP AMBASSADOR CDEBACA'S VISIT TO
MALAYSIA AUGUST 25-27
[1](#)B. KL 908--DEATH OF INDONESIAN MAID HIGHLIGHTS
CONTINUING MIGRANT WORKER PROBLEMS IN
MALAYSIA

SUMMARY AND COMMENT

[1](#)1. (SBU) Summary: Ismail Abdul Rahim, Director General of Labor in the Ministry of Human Resources, told Polcouns during a December 24 meeting that the GOM had acted to prevent outsourcing companies from fraudulently recruiting workers overseas and was close to reaching an agreement with Indonesia on treatment of maids. Joined by eight of his top advisors, Ismail stated that he believes the source of labor trafficking is economic disparity between Malaysia and its neighboring countries; he pointed to outsourcing companies as a significant contributor to this problem; he noted the responsibility of source countries to act to prevent trafficking in persons (TIP); and, at times during the meeting, he attempted to minimize both incidents of abuse of migrant workers as well as the scope of the TIP problem in the labor sector in Malaysia. Poloffs emphasized that the GOM needed to demonstrate the results of its anti-TIP efforts in connection with the review period ending in March. Recalling TIP Ambassador Cdebaca's visit in August 2009 (Ref A), Poloffs asked how GOM plans for cracking down on and reducing the number of labor recruitment agencies operating in Malaysia have progressed, but Ismail did not provide specifics on actions against such agencies. End Summary.

[1](#)2. (SBU) Comment: Ismail was well-prepared with talking points for the meeting and well-versed on recent actions taken by the GOM to combat human trafficking. He was knowledgeable on the subject matter and able to point to anti-trafficking actions being taken by the GOM such as cracking down on outsourcing companies and coordinating with Indonesia on a new Memorandum of Understanding (MOU) regarding treatment of migrant workers. That said, Ismail was short on specifics and continued to take an artificial and narrow interpretation of what constitutes human/labor trafficking vs. traditional labor disputes. This may be in part driven by HR Ministry efforts to retain jurisdiction over labor cases and not cede these responsibilities to the Attorney Generals Office for handling under the new anti-trafficking law. Post will be requesting a meeting for the Ambassador with the Human Resources Minister in the coming weeks to follow-up on a number of these issues and our pending TIP labor concerns. End Comment.

[1](#)3. (SBU) Human Resources Ministry Director General of Labor Ismail, accompanied by Director of Labor Enforcement Division, Zaharah Binti Zainal Abidin, Principal Assistant Director of Labor Foreign Workers Division, Yusoff Bin Harun, and six other advisors, during a December 24 meeting with Polcouns and Poloff, shared Ministry views on the current labor trafficking situation in Malaysia. He explained that many of the USG's concerns outlined in the U.S. TIP Action Plan had already been addressed, citing actions to curtail

labor trafficking and progress on protecting Indonesian maids. Ismail had been an active participant in a meeting with Ambassador CdeBaca in August 2009, wherein Deputy Minister of Human Resources Maznah Mazlan explained that her ministry was working to amend the Employment Act to better address labor trafficking and outlined GOM plans for cracking down on and reducing the number of labor recruitment agencies operating in Malaysia. Ismail's comments echoed those made by Maznah Mazlan to Ambassador CdeBaca that many of the USG's concerns regarding how TIP matters are handled were already being addressed (Ref A).

GOM ANTI-TIP EFFORTS

14. (SBU) Emphasizing that the GOM needed to demonstrate the results of its anti-TIP efforts in connection with the review period ending in March, Polcouns asked what the Human Resources Ministry was doing about well-documented NGO allegations that fraudulent labor trafficking -- where foreign workers pay high fees to be placed in jobs that don't exist, and are then subject to labor trafficking -- was continuing. Ismail pointed to his government's recent efforts to crack down on "fraudulent and unscrupulous outsourcing companies." Ismail explained that in July 2009, the GOM changed how it handles the processing of foreign workers into the country. In the past, outsourcing companies had flexibility in the number of workers recruited and what jobs they were assigned. Starting in July, outsourcing companies were required to specifically demonstrate to the Labor Department that a real job exists for every worker that is being recruited. If the outsourcing company is unable to prove such a job exists, the request is denied. He asserted

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that such action has already served to correct the problem and any cases that have since cropped up simply reflect workers who were in country prior to the change in policy. Ismail added that the Attorney General's Chambers would prosecute outsourcing companies who were not complying with this new policy but did not elaborate as to whether any such cases had gone forward. Polcouns requested further information about the July 2009 policy changes and their implementation, noting that the media and NGOs report that labor trafficking by outsourcing companies still continues. The Human Resources Ministry has yet to provide the requested information.

15. (SBU) Ismail explained the outreach that his office and the Ministry of Home Affairs were conducting on the TIP issue. He said that on December 26, GOM officials were travelling to Sarawak and Sabah to conduct a "road show" to promote public awareness of TIP. (Note: This is consistent with the GOM's recent launching of a public awareness campaign on TIP which has included full page ads in local daily newspapers and radio spots calling for an end to human trafficking; details to be reported septel. End Note). He also noted that his Ministry was in the process of creating a Standard Operating Procedure (SOP) on the hiring and treatment of domestic workers. His department is also creating a Maid Case Task Force to work in coordination with the Home Ministry and its enforcement agencies to provide a layer of protection for domestic workers. He did not elaborate on when the SOP would be available or when the task force would be operation.

Two Types of Trafficking

16. (SBU) Ismail said that economic migration is the source of the labor trafficking problem and that economic disparity between Malaysia and its neighbor countries, an open-door immigration policy and porous borders were at the heart of this issue. Traffickers prey on the poor, noted Ismail, promising them job opportunities for lucrative pay only to place them into forced-labor situations once the migrants arrive in Malaysia. He noted that it was a large problem -- 1 to 1.5 million illegal workers -- but that Malaysia was doing

its best to resolve it. He emphasized that the Human Resources Ministry had a responsibility to protect all workers, to include foreign workers, from discrimination and mistreatment. Ismail divided the victims of trafficking into two groups - one group consisting of individuals who were "tricked" into coming into Malaysia for lucrative employment only to be forced into prostitution and a second group consisting of workers who came to Malaysia willingly and without being "tricked" but were later abused or unpaid. He explained that he felt that the definition of trafficking in persons was too broad and should include only members of the first group and not the second. The second issue was a labor issue and should be exclusively handled under the labor laws. When Polcouns and Poloff argued that the second group could also include victims of trafficking, he reluctantly agreed that such cases needed to be looked at on a case-by-case basis, but reemphasized that the labor laws have been in place for years and that many cases could be handled under the labor laws. (Comment: Prior to the enactment of the 2007 Anti-TIP Act, Malaysia historically handled many trafficking cases as simple labor disputes under the labor laws. Labor disputes continue to be handled in separate court system by Labor Department officials. Ismail's comments were defensive and may reflect an attempt to retain HR Ministry control over these matters rather than forfeit them to the Attorney General's Chambers. End Comment.)

17. (SBU) Ismail downplayed the incidents of abuse of domestic servants in Malaysia. Malaysia has had a number of high profile incidents of abuse of Indonesian maids in recent years (Ref B). He claimed that the GOM has received only 400 reports of abused maids in the past few years while his office has received 8000 reports of maids running away from their employers. While he acknowledged that abuse of domestic workers was a problem that his ministry needed to address, he felt it paled in comparison to the issue of run-away maids. Ismail noted that Malaysian employers front considerable money to hire foreign maids, yet claimed that many maids come to Malaysia with no intention of working and flee within days of their arrival, thereby causing a significant financial loss to their employers. He explained, "I know you do not want to hear it, but keeping their passports prevents them from running away." He acknowledged that a new MOU with Indonesia on maids would likely prevent employers from holding passports, as well as regulate salaries and vacation days. He also noted that a sticking point in these negotiations has been agreeing to the amount of fees charged by labor recruiting agents in Indonesia.

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FINGERPOINTING AT BANGLADESH

18. (SBU) Ismail pointed out that source countries have a responsibility to prevent the labor trafficking problem. He added, "I do not want to push this problem on to anyone else, but Bangladeshi agents are to blame." (Note: This is a reference to the large number of Bangladeshis present in Malaysia who claim to have been duped by outsourcing agents. It resulted in the GOM cancelling work visas of 55,000 Bangladeshis in March 2009. End Note.) He agreed with Poloff's suggestion that this issue needed to be addressed regionally and that ASEAN may provide one forum for doing so.

19. (SBU) Ismail closed by encouraging Embassy Kuala Lumpur to continue to work with his office on TIP issues. He identified Zaharah Binti Zainal Abidin and Yusoff Bin Harun as points of contact.

KEITH